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Board Bulletin

Board Bulletin: SCFO provides legal representation to indigent offenders

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State Counsel for Offenders (SCFO) has been representing indigent offenders since the mid-1960s. In its early years it was known as Inmate Legal Services or Staff Counsel for Inmates. The office originated in response to litigation on the issue of access to courts, which resulted in legislative action authorizing the provision of legal representation for offenders. Although SCFO reports directly to the Texas Board of Criminal Justice, the division operates within the structure of the Texas Department of Criminal Justice (TDCJ) in order to fulfill its mission of providing quality legal advice and representation to indigent offenders.

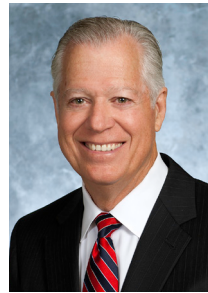
There are five legal sections within SCFO that cover the following areas: criminal defense, civil defense, appellate, immigration and general legal. In addition, the office receives administrative support to assist with human resources, budgetary and other critical management matters.

The Trial section provides court-appointed legal assistance and representation to indigent offenders who are indicted for felony offenses allegedly committed while incar-

cerated in the TDCJ. SCFO's trial attorneys, legal assistants, and investigators work diligently to provide constitutional rights to all offenders. That work includes court appearances, investigations, obtaining discovery, plea negotiations, and dispositions by pleas or trials.

The Civil Commitment section represents offenders prosecuted under the state's civil commitment statute for sexually violent predators. The law, Chapter 841 of the Health and Safety Code, was enacted in 1999. Attorneys, along with legal assistants and other support staff, actively conduct discovery under the civil procedure rules and prepare cases for trial. At least 50 cases are tried before a jury each fiscal year, using primarily the testimony of expert witnesses who have been vetted during the pretrial process.

Offenders who violate the terms of civil commitment may be prosecuted and sent back



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to prison for sentences that range from two years to life. Indigent offenders facing prosecution for alleged violations of civil commitment are appointed free-world lawyers instead of SCFO.

Attorneys and legal assistants in the Appellate section assist offenders with the appeal of criminal and civil commitment cases. In addition, the section assists with writs of habeas corpus, parole and mandatory supervision eligibility requirements, and jail-time credits. Time specialists in the section analyze and research time-calculation issues, which results in jail-time credits and time credits being awarded to offenders. When time credits are given, the system realizes an advantage in available bed space, and reduced exposure to litigation.

The General Legal and Immigration (GLI) section is actually two sections that have been combined into one for efficiency. Attorneys and legal assistants assist offenders with pending charges and detainers. They provide advice to offenders who are in extradition proceedings or who have agreed to probation revocation waivers. This section also reviews

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hundreds of pieces of mail received on a daily basis on matters including family law issues such as divorce, child custody, and child support. Any number of other issues that are not covered in the other sections are likely to be addressed or handled by this staff.

Another important function of the GLI section is its role in assisting or representing offenders who are in removal (deportation) proceedings or who want to apply for the international prisoner exchange program. TDCJ and SCFO have been working with the United States federal government since

1996 to provide advice and assistance to offenders placed in removal proceedings. SCFO attorneys and staff attempt to interview all offenders prior to their initial immigration court appearance. SCFO will represent offenders who have valid claims of citizenship or defenses against removal, if those claims or defenses can be supported by appropriate documentation and the offenders' families are able and willing to pay the necessary fees.

Offenders who want to participate in the international prisoner exchange program may

obtain the application from SCFO. When the completed application is returned to SCFO, it is forwarded to the Office of the Texas Governor for review.

For nearly 50 years the SCFO has been successful in providing important legal services to indigent offenders, while working within the largest state prison system in the country. ●